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100TH CONGRESS
2D SESSION

H. R. 5092

To provide accountability in the use of presidential directives, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 1988

Mr. BROOKS introduced the following bill; which was referred to the Committee on Government Operations

A BILL

To provide accountability in the use of presidential directives, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Presidential Directives
5 and Records Accountability Act".

6 SEC. 2. CONTROL OF THE USE OF EXECUTIVE DIRECTIVES.

7 (a) DEFINITION OF EXECUTIVE DIRECTIVE.—Section
8 1501 of title 44, United States Code, is amended—

9 (1) by designating the three indented paragraphs
10 thereof as paragraphs (1), (2), and (3), respectively;

1 (2) by striking out the period at the end of such
2 paragraph (3) and inserting a semicolon;

3 (3) by adding at the end thereof the following:

4 “(4) ‘Executive directive’ means any written in-
5 strument, other than a Presidential proclamation or
6 Executive order, that—

7 “(A) is signed or endorsed by, or is issued at
8 the direction of, the President, or an appointee in
9 the Executive office of the President; and

10 “(B)(i) establishes policy, (ii) directs the car-
11 rying out of law or policy, (iii) authorizes or re-
12 quires the use of appropriated funds or other re-
13 sources (including personnel), or (iv) otherwise as-
14 serts or appears to assert an authority of the
15 President,
16 except that such term does not include a finding under
17 section 662 of the Foreign Assistance Act of 1961 (22
18 U.S.C. 2422).”.

19 (b) FILING AND REGISTRATION OF EXECUTIVE DI-
20 RECTIVES.—Section 1503 of such title is amended—

21 (1) by inserting “**AND DIRECTIVES**” after
22 “**FILING DOCUMENTS**” in the heading of such sec-
23 tion;

24 (2) by designating the text of such section as sub-
25 section (a) thereof; and

1 (3) by adding at the end thereof the following new
2 subsection:

3 “(b)(1) The original and three duplicate originals or cer-
4 tified copies of each Executive directive shall be filed with
5 the Office of the Federal Register on the next business day.
6 The Archivist shall cause to be noted on the original and
7 copies of such directive the day and hour of the filing and
8 shall number such filings sequentially in the order filed. The
9 original of all Executive directives shall be permanently re-
10 tained as a part of the Archives of the United States.

11 “(2) Upon filing, one copy of each Executive directive
12 shall be immediately transmitted to the Speaker of the House
13 of Representatives, and one copy shall be immediately trans-
14 mitted to the President pro tempore of the Senate. In the
15 case of directives which contain information which may be
16 withheld from disclosure under section 552(b)(1) of such title,
17 such copies shall be transmitted and maintained in the
18 manner required by the rules and procedures of the House of
19 Representatives and the Senate, respectively, to protect the
20 information therein from improper disclosure.”.

21 **SEC. 3. PROTECTION OF PRESIDENTIAL AND OTHER FEDERAL**
22 **RECORDS.**

23 (a) **INFORMING EMPLOYEES OF PRESIDENTIAL**
24 **RECORDS ACT REQUIREMENTS.**—Chapter 22 of title 44,

1 United States Code, is amended by inserting after section
2 2207 the following new section:

3 **“§ 2208. Informing Employees of Requirements**

4 “(a) Each officer or employee who is appointed or de-
5 tailed to, or otherwise employed in, a position in the Execu-
6 tive Office of the President or Vice President, or on the im-
7 mediate staff of the President or Vice President, shall re-
8 ceive, and shall, at the time of employment, sign a receipt
9 for, a notice describing the requirements of this chapter and
10 of the procedures for controlling, managing, and preserving
11 Presidential or Vice Presidential records.

12 “(b) Each such officer or employee shall, at the time of
13 vacating any such position, receive a copy of the notice re-
14 quired by subsection (a).

15 “(c) The notice required by subsection (a) shall be pre-
16 pared jointly by the Archivist and counsel to the President.”.

17 (b) ESTABLISHMENT OF OFFICE OF RECORDS MAN-
18 AGEMENT.—Chapter 22 of title 44, United States Code, is
19 further amended by adding at the end thereof the following
20 new section:

21 **“§ 2209. Office of Records Management.**

22 “‘There shall be in the Executive Office of the President
23 an Office of Records Management. The Office shall be re-
24 sponsible for securing compliance with the requirements of
25 this chapter and for carrying out such other functions as may

1 be assigned by the President. The Office shall consult with
2 the Archivist before making any significant change in the
3 practices or procedures used to secure such compliance.”.

4 (c) AUTHORITY OF THE ARCHIVIST TO DEFINE
5 “RECORD”.—Section 3301 of title 44, United States Code,
6 is amended by adding at the end thereof the following new
7 sentence: “The Archivist shall have final authority in the Ex-
8 ecutive branch to determine what constitutes such a record
9 for purposes of chapters 21 through 33 of this title and may
10 issue such rules, regulations, and guidelines as may be neces-
11 sary for such purposes.”.

12 (d) CONFORMING AND TECHNICAL AMENDMENTS.—

13 (1) The analysis for chapter 22 of title 44, United
14 States Code, is amended—

15 (A) by striking out the item pertaining to
16 section 2205 and inserting the following:

“2205. Exceptions to restricted access.”; and

17 (B) by inserting after the item pertaining to
18 section 2207 the following:

“2208. Informing employees of requirements.

“2209. Office of Records Management.”.

19 (2) Section 2201(3) of such title is amended by
20 striking out “therof” and inserting “thereof”.

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